



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

██████████
Docket No. 10318-23
Ref: Signature Date

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF ██████████
XXX XX ██████/█████ USMC

Ref: (a) Title 10 U.S.C. § 1552

Encl: (1) DD Form 149 w/enclosures
(2) 6105 Counseling Entry, 2 Mar 16

1. Pursuant to the provisions of the reference, Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that his naval record be corrected by removing enclosure (2).
2. The Board, consisting of ██████████, ██████████, and ██████████ reviewed Petitioner's allegations of error and injustice on 19 December 2023, and pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, relevant portions of the naval records, and applicable statutes, regulations, and policies.
3. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:
 - a. On 2 March 2016, Petitioner received a 6105 counseling entry for violation of Article 92 of the Uniform Code of Military Justice. Specifically, on or about 15 February 2016, Petitioner violated the ██████████ Statement of Understanding and MCCSSSO 5300.1 [Marine Corps Combat Service Support School Order 5300.1] by consuming alcohol while under the legal drinking age of 21. Petitioner acknowledged the entry and chose not to make a statement in rebuttal. See enclosure (2).
 - b. In his application, Petitioner contends the counseling should be removed because he was 22 years of age when the incident occurred. He further contends that he was a lance corporal at the time, attending his Military Occupational Specialty (MOS) School, and that he was forced to sign the counseling entry as part of a mass punishment while attending MOS School at ██████████, ██████████. Petitioner submitted his current State issued Driver's License as proof that he was of legal drinking age when he was counseled in 2016.

CONCLUSION

Upon review and consideration of all the evidence of record the Board determined that Petitioner's request warrants partial relief.

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]
XXX XX [REDACTED] [REDACTED] USMC

The Board determined Petitioner provided sufficient evidence to support his contention that he was above the legal drinking age at the time the counseling was issued. However, the Board determined Petitioner provided insufficient evidence he did not violate Article 92, Uniform Code of Military Justice by disobeying a direct order and violating the [REDACTED] Statement of Understanding or MCCSSS Order 5300.1 by consuming alcohol. The Board thus determined there was insufficient evidence of error or injustice warranting removal of the counseling from Petitioner's naval record and concluded that enclosure (2) should instead be modified by redacting any mention of Petitioner being under the legal drinking age.

RECOMMENDATION

In view of the above, the Board directs the following corrective action:

Petitioner's naval record will be corrected by redacting the following statement from enclosure (2):

“while under the legal drinking age of 21”

That no further changes be made to Petitioner's naval record.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above-entitled matter.
5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulation, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on Behalf of the Secretary of the Navy.

1/20/2024

